

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

UJUAN KIRDELL BURTON,

Plaintiff,

v.

MARSHA NURKALA, et al.,

Defendants.

Case No. 2:24-cv-96

HON. JANE M. BECKERING

ORDER

This is a civil rights action brought by a state prisoner under 42 U.S.C. § 1983. Defendant Roberts filed a Motion for Summary Judgment on the Basis of Exhaustion (ECF No. 12). The matter was referred to the Magistrate Judge, who issued a Report and Recommendation (ECF No. 18) on March 31, 2025, recommending that this Court grant the motion and dismiss Defendant Roberts from the suit. The Report and Recommendation was duly served on the parties. No objections have been filed.¹ *See* 28 U.S.C. § 636(b)(1). Accordingly:

IT IS HEREBY ORDERED that the Report and Recommendation (ECF No. 18) is APPROVED and ADOPTED as the Opinion of the Court.

¹ A response to Defendant Roberts' motion for summary judgment, dated April 8, 2025, was received by the Court and filed on April 22, 2025 (ECF No. 19). The response was due within twenty-eight days after service of the motion. According to the certificate of service (ECF No. 12 at PageID.71), a copy of the motion was mailed to Plaintiff on October 8, 2024. Plaintiff's response was filed after the 28-day deadline. In addition, the response does not address the untimeliness of Plaintiff's filing. Accordingly, Plaintiff is properly deemed to have waived any arguments made in opposition to Defendant Roberts' motion. *See Elmore v. Evans*, 449 F.Supp. 2, at *3 (E.D. Tenn. Nov. 3, 1976), *aff'd* 577 F.2d 740 (6th Cir. 1978) (unpublished per curiam); W.D. Mich. LCivR 7.2(c).

IT IS FURTHER ORDERED that the Motion for Summary Judgment on the Basis of Exhaustion (ECF No. 12) is GRANTED, and Plaintiff's claims against Defendant Roberts are DISMISSED WITHOUT PREJUDICE. Defendant Roberts is therefore TERMINATED from this action.

The case proceeds as to Plaintiff's claims against Defendants Nurkala, Beasley, and Holley.

Dated: April 30, 2025

/s/ Jane M. Beckering
JANE M. BECKERING
United States District Judge